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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,685	12/09/2003	Marcille F. Ruman	KCX-705 (19342)	3265
22827	7590	07/05/2007		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER BOGART, MICHAEL G	
			ART UNIT	PAPER NUMBER
			3761	
			MAIL DATE	DELIVERY MODE
			07/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/731,685

Applicant(s)

RUMAN, MARCILLE F.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 19 January 2005.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Withdrawal of Allowable Subject Matter***

The indicated allowability of claims 21-27 is withdrawn in view of the new grounds of rejection.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "E" and "D" have both been used to designate lateral sides of the article and lateral sides of the backing (see figures 1 and 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 11 is objected to because of the following informalities:

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Claim 11 recites the limitation "said film material" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

### ***Claim Rejections – 35 USC § 103***

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 and 24-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mills (US 6,074,376 A) in view of Tameishi *et al.* (US 6,575,947 B1; hereinafter "Tameishi").

Regarding claim 1, Mills teaches a packaged absorbent article (20) capable of placement in the crotch region of an undergarment, comprising:

a generally liquid permeable top cover (38);

a generally liquid impermeable baffle (40) having a garment facing side (20B);

an absorbent structure (42) disposed between said top cover (38) and said baffle (40);

said garment facing side (20B) of said baffle (40) comprising a mechanical fastener (74)

defined in a pattern thereon (col. 7, lines 51-67);

a backing sheet (78) having a first surface disposed facing said garment facing side (20B) of said baffle (40) and defining a first portion (82) releasably attached to said baffle (40) and a second portion (80) extending from said first portion (82) such that taken together said first and second portions (82, 80) defining said first surface extend to cover all of said garment facing side

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(20B) of said baffle (40), said backing sheet (78) comprising dimensions so as to extend beyond lateral sides and longitudinal ends of said absorbent article (20) when attached to said baffle (40);

said article (20) and attached backing sheet (78) folded into a configuration such that lateral sides (80D) of said backing sheet (78) are brought together and said backing sheet (78) defines a pouch for said article (20)(see figures 2B, 3 and 4, *infra*).

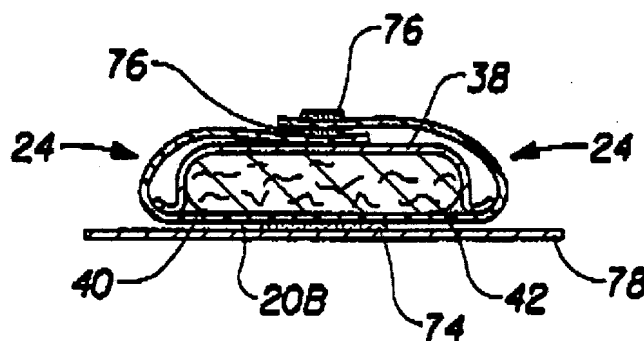


Fig. 2B

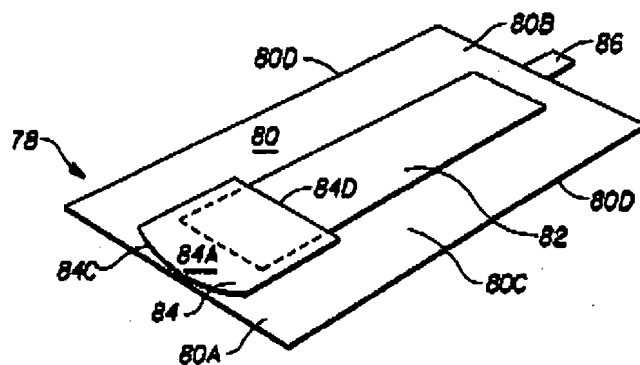


Fig. 3

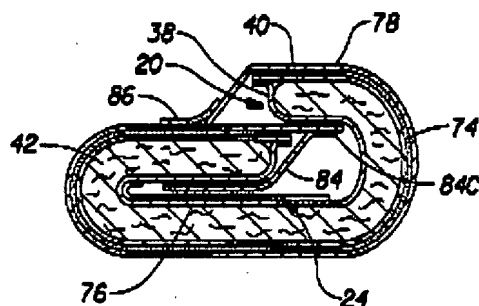


Fig. 4

Although Mills teaches that fastener (74) can be a mechanical fastener such as Velcro® which is well known in many fields as a brand of hook and loop fasteners, but does not specifically disclose that the backing sheet (78) is hook compatible (able to engage the hook elements of a conventional hook and loop fastener)(see, e.g., [www.velcro.com/about/history.html](http://www.velcro.com/about/history.html)). Mills also teaches a release layer (82) on wrapper layer (80) to facilitate resealable engagement with fastener (74), but does not teach that release layer (82) is a nonwoven material (col. 8, lines 15-26).

Tameishi teaches an absorbent article (20) in a wrapper (78). Tameishi teaches that the article's impermeable baffle (40) releasably attaches to the wrapper (78) via a Velcro® hook and loop fastener (76)(col. 9, lines 19-32). Tameishi discloses that the wrapper (78) has a nonwoven non-stick face (81A) capable of releasably engaging the Velcro® component, then the Velcro® component on baffle (40) must be a hook component as a loop component could not releasably engage such a nonwoven face (81A)(see fig. 2, *infra*).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the nonwoven release layer of Tameishi as the release layer of Mills in order to provide a release face that provides for a releasable engagement of the Velcro ® fastener to the baffle.

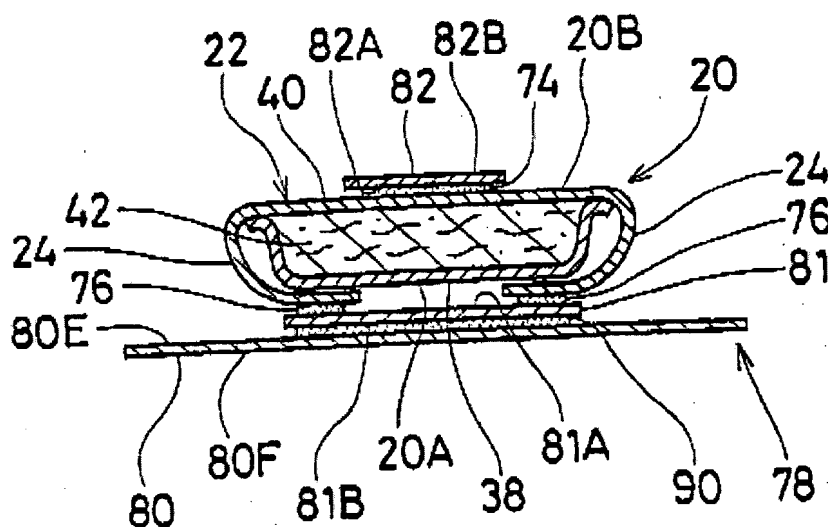


Fig. 2

Regarding claims 10, 11, 21, 22 and 25, Mills teaches that outer layer (80) of wrapper (78) is a film that is outwardly facing (see fig. 4, supra). Tameishi teaches that inner layer (81) can comprise a nonwoven adhered (90) to layer (80)(col. 9, lines 19-32).

Regarding claim 2, Mills teaches that fastener (74) provides a primary fastening mechanism between article (20) and undergarment (col. 8, lines 1-14).

Regarding claim 3, Mills teaches that top cover (38) comprises a hook compatible material (incorporating by reference at col. 6, lines 9-28, Osborn, III, US 4,950,264, which teaches fibrous topsheets at col. 8, line 57-col. 9, line 44). Mills further teaches that backing sheet (78) prevents attachment of fastener (74) to said top cover (38)(see fig. 4, supra).

Regarding claims 4, 5 and 20, Mills teaches a tri-folded article (20) and backing sheet (78)(see fig. 4, supra).

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Regarding claims 6 and 27, Mills teaches a releasable tab (86) that keeps the flap folded (see fig. 4).

Regarding claims 7 and 24, Mills teaches that said lateral sides (80D) of said backing sheet (78) are bonded together to define sealed sides of said pouch (col. 10, line 65-col. 11, line 10)(see fig. 4).

Regarding claims 8 and 26, Mills teaches that one longitudinal end (80B) of said backing sheet (78) is folded over onto a front surface of said pouch and defines an opening flap (80B, 86).

Regarding claim 9, Tameishi teaches that said backing sheet (78) comprises a nonwoven material (81A)(that is releasably attachable to said hook material (col. 8, lines 29-34)).

Regarding claims 12 and 13, Tameishi teaches that layer (81) is bordered by layer (80).

Regarding claims 14 and 19, Mills teach that said article (20) further comprises opposite laterally extending wings (24) configured to fold around the crotch portion of a wearer's undergarment, said wings (20) folded onto said top cover (38) in said folded configuration of said article (20) such that garment facing sides (20B) of said wings (24) are outwardly facing (see figure 2B).

Regarding claim 15, Mills teaches that wings (24) comprise hook and loop Velcro ® fasteners (76) on the garment facing side (20B) and a protective nonwoven material sheet (84A)(col. 9, lines 28-52)(see discussion supra as to why it would be obvious to use the hook component of a Velcro ® fastener here).



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Regarding claims 16 and 17, see fig. 2B, *supra*. Mills at col. 6, lines 8-28 incorporates by reference Sneller *et al.* (US 5,308,346 A) which at col. 6, lines 1-22 teaches a backsheet made of nonwoven material which can engage Velcro ® hooks.

Regarding claim 18, Mills teaches adhesive attachment of the flaps (24)(col. 9, line 5-col. 10, line 64).

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mills and Tameishi as applied to claims 1-22 and 24-27 above, and further in view of Costa (US 6,063,065 A).

Mills in view of Tameishi do not teach a backing sheet with an opposite film material side comprising a nonwoven material.

Costa teaches a sanitary napkin wrapper (30) that comprises fibrous nonwoven materials col. 7, lines 40-50).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to use the nonwoven material of Costa as a wrapper material in the wrapper of Mills and Tameishi in order to provide a material that is known in the art to be suitable for that purpose. MPEP § 2144.07.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

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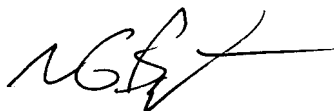
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
21 June 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

